

**3. Licensee's Reputation in the Community for Serving the Problems, Needs, and Interests of the Community
(Criterion 3)**

765. "Both the court and the Commission have considered relevant any evidence of a station's reputation in the community...." Metroplex Communications, Inc. (WHYI-FM), supra, 4 FCC Rcd at 8153. Indeed, the cases have stressed the importance of reputation evidence in assessing a licensee's record during a License Term. See, e.g., Central Florida Enterprises, Inc. v. FCC, 683 F.2d 503, 508 (D.C. Cir. 1982); Intercontinental Radio, Inc., 98 FCC 2d 608, 632-633 (Rev. Bd. 1984). In the present case, thirty witnesses, most of them long time residents of the service area, came forward to testify on WHFT's behalf, attesting to various aspects of its record of community service during the License Term.

766. Several public witnesses spoke directly to the reputation of WHFT in the community. Rev. Tolbert, the Pastor of Christ-Centered Life Ministries in Hallandale, Florida, testified that WHFT has a reputation for helping people and serving community needs, both with its programming and with its community outreach, specifically the Prayer Line and His Hand Extended Program. (¶530 above.) Mr. Hughes, the founder and Program Director of Community Christian Counseling, Inc., praised WHFT's positive reputation of public service through its HHE ministry, noting that he had referred people in need to HHE. (¶578 above.) Likewise, Pastor Luis Lopez praised WHFT for its

excellent reputation for community service and responding to the community's problems and needs, particularly praising the Prayer Line. (§581 above.)

767. Two public witnesses addressed another aspect of WHFT's service when they testified that WHFT's programming was particularly helpful to senior citizens. Dr. Barnes noted that the elderly and homebound particularly appreciated the upbeat positive programming on WHFT. (§527 above.) Likewise, Dr. Jacobs testified that WHFT provides a real service to the elderly he visits, who do not like the violence and sexuality of daytime programming and who think of the station as a companion. (§549 above.)

768. The record contains a great deal of testimony from public witnesses in which WHFT's sensitivity and response to the needs of Miami's minorities were praised. For example, Pastor James Edward Woods testified that WHFT was particularly responsive to the needs of the minority community, both through its programming and through its HHE ministry. (§515 above.) Pastor Tolbert noted that in the aftermath of the Rodney King disturbances WHFT took special care to reach out and touch base with all the leaders, pastors, gang members, businessmen, and all whom he described as "in the front line" dealing with the community's anger. (§530 above.) Dr. Jacobs noted that WHFT seemed to have a healing influence on a community divided by racial and ethnic groups, and that the African-American and

Hispanic communities were well represented both in the numbers of guests on local programs as well as the hosts of those programs. (§550 above.) Mr. Thompson noted that the program on which he appeared included a tableau not often seen in South Florida, an African-American host, two Hispanics, and himself (an Anglo), all discussing common problems and working toward solutions together for the betterment of the community. (§562 above.)

769. Likewise, Mr. Dodge testified that although suspicion between races and ethnic groups was a problem in the Miami service area, he was asked to bring with him representative members of different racial and ethnic groups when he was invited to appear on WHFT. This was to show both that his program served a diverse population and that different races and ethnic groups were working together in a collaborative program. (§555 above.) Pastor Lopez testified that WHFT programming had a positive impact on the largely minority population that he served because many hosts on WHFT programming were members of minority groups. (§580 above.)

4. Licensee's Record of Compliance with the Communications Act and FCC Rules and Policies (Criterion 4)

770. There is no record evidence of any violation of FCC rule or policy by TBF in the operation of WHFT during the License Term. Accordingly, there is nothing in TBF's steward-

ship of WHFT that in any way diminishes WHFT's entitlement to a renewal expectancy.

**5. The Presence or Absence of Any Special Effort at
Community Outreach or towards Providing a Forum for
Local Self-Expression (Criterion 5)**

771. The record evidence amply documents the extraordinary time and energy that TBF spent on community outreach during the License Term, particularly His Hand Extended and the Prayer Line. During the License Term, TBF had on its staff one full-time and one part-time employee -- the His Hand Coordinator and the Prayer Partner Coordinator -- whose sole work was operating WHFT's outreach activities. (§439 above.) A considerable amount of WHFT's physical space was devoted to these outreach activities, and the facilities for the His Hand Extended Ministry had to be renovated during the License Term at a great expense. (§486 above.) WHFT constantly ran spot announcements requesting food, clothing, and other necessities for distribution by HHE, to encourage volunteers to help the station staff sort and distribute the donated goods, and to recruit volunteers to staff the Prayer Line. (§440 above.) WHFT's paid staff members supervised numerous volunteers -- two to three a day for His Hand Extended (§446 above), 300 to 350 a month for the Prayer Line (§449 above).

772. HHE provided food, clothing, and other emergency aid to truly remarkable numbers of people. According to WHFT's records, more than 30,600 individuals and 2,565 families

received direct aid from HHE during the License Term. (§447 above.) Susan Sissman, a public witness who was experienced in providing food aid, characterized HHE as a clean, well-run, and compassionate food pantry and described the 55 families a week that HHE was feeding in 1991 as a very large number of people to service. (§513 above.)

773. HHE was providing such a necessary service that the Hallandale City Human Resources Department, the Red Cross, and other state and local agencies referred people with emergency needs to HHE for help. (§445 above.) One food service professional called HHE a vital safety net for the poor of Broward County. (§513 above.) Mary Washington, the Director of the Human Resources Department of the City of Hallandale, described HHE as a great help in caring for the needy. (§558 above.) Indeed, other charitable organizations also benefitted from HHE's largesse, including a senior citizen breakfast program run by the city of Hallandale (§557 above), Gregory Brown's ministry to the homeless on the beach (§571 above), Pastor Lopez's Ministerios Unidos Por Fe program (§580 above), and Bobby Rosario's Hogar Renacer drug and alcohol treatment program (§585 above). All of these received donations of food and other necessities from HHE during the License Term.

774. HHE dispensed more than just food and clothing. People who came to HHE with obvious problems, or who requested the help, were referred to social services agencies and other

organizations where they could receive help. (§444 above.) Although records were not kept throughout the License Term, at least 270 people were referred to agencies or organizations where they might find long term help. (§447 above.)

775. Finally, many of the public witnesses testified concerning the number of people the HHE helped, lauding HHE as a real service to the community. These included: Pastor Woods (§515 above); Mr. Bell (§532 above); Rev. Isaiah Williams (§546 above); Pastor Lopez (§581 above); Dr. Jacobs (§549 above); Mr. Hughes (§578 above); and Rev. Rosario (§585 above).

776. The Prayer Line was also praised as a tremendous benefit to the community, providing a phone line that could be reached 24 hours per day for prayer, a friendly voice, or a referral to an agency for assistance with a crisis, such as a contemplated suicide or an abusive spouse. The sheer number of people who called the Prayer Line alone establish it as an important outreach activity. During the License Term tens of thousands of area viewers called the Prayer Line, from a minimum of 1,300 per month to several months during which WHFT fielded over 3,500 calls -- more than 100 calls per day. (§§448, 449 above.)

777. While most people called the Prayer Line for prayer, roughly 5-10 percent called with a genuine emergency. (§451 above.) These calls included people contemplating suicide, drug and alcohol addicts, women suffering spouse abuse, and many

others. (§454 above.) A public witness, Gregory Brown, testified that he knew of at least six people who are alive today because they called the Prayer Line and received help, including a cocaine addicted woman with two children who called contemplating suicide. (§572 above.) Pastor Rodriguez reported that he knew a young man in crisis, a young pregnant woman, and several with drug problems who called the Prayer Line and received help. (§520 above.) Likewise, Rev. Williams knew of a woman comforted during her terminal illness by calls to the Prayer Line, and of another who called the Prayer Line from jail and who received a referral to someone who helped him when he was released from jail. (§546 above.)

778. In addition to an understanding voice, people who called the Prayer Line with a plea for help received, at a minimum, a referral to a social service agency, nonprofit organization, or ministry in their neighborhood that could help them with their problem. (§448 above.) A manual exhaustively listing all such agencies and organizations was constantly updated by the station staff (§452 above), and, on occasion, a station staff member would call the person to whom the caller was referred to alert them to the problem and encourage them to follow-up (§§450, 453 above). Many of the public witnesses confirmed that they or their organizations had received referrals from the Prayer Line. Pastor Lewandowski testified that approximately 10 percent of the residents of his Lamb of God drug and alcohol rehabilitation program were referred to him by

the Prayer Line. (§539 above.) Other ministries and organizations that received referrals included: Rev. Tolbert's, Rev. Rosario's, Mr. Vega's, and Mr. Hughes' drug and alcohol rehabilitation programs; Pastor Lopez's program for transitioning convicts; Robert Bashaw's counseling program; and, Mrs. Carter's program for "crack babies" and their addicted mothers. Other public witnesses testified to the needs served by the Prayer Line, variously characterizing it as a source of comfort (§574 above), short-term assistance in time of crisis (§578 above), or a good, free point of contact for people experiencing a crisis (§585 above). Others noted that desperate people were helped (§537 above) or that the Prayer Line was a place where drug and alcohol addicted people could receive help (§570 above). The consensus recognized the Prayer Line as an important public service unlike any offered by television stations in the service area.

779. Many public witnesses who appeared on WHFT programming expressed gratitude that WHFT displayed their organization's phone number during the program and encouraged viewers to contribute and to volunteer to assist their organization. Following her appearance on WHFT programming Mrs. Wilson received helpful contributions and volunteers for her ministry to the divorced and separated. (§511 above.) James Woods received donations of food and other items, as well as volunteer workers to help in his street ministry. (§515 above.) Sgt. Roper and Sgt. Morton of Crimestoppers received a great number

of calls from viewers. (§§525, 543 above.) Dr. Barnes and Rev. Tolbert appeared on programs and received offers of help from many new volunteers, as did Dr. Jacobs at the Rescue Mission. (§§527, 529, 547 above.) Mr. Vega received volunteers to deliver Thanksgiving turkeys to the needy (§569 above), and Stephen Cronk received volunteers to distribute toys at Christmas to the children of inmates (§576 above). Following her appearance Jean Caceres-Gonzales received offers from potential volunteers and donations of children's clothes and furniture for her program. (§565 above.) All attributed the contributions and new volunteers both to the publicity stemming from their appearance on the program and to WHFT's constantly exhorting viewers to get personally involved.

780. In addition to WHFT's other community outreach activities, Rev. Tolbert testified to a truly remarkable community outreach effort by the station in 1991. An evangelist preaching on a WHFT program, Rev. Davis, announced that he was going to lead a march to end youth gang violence through the streets of Miami's Little Havana neighborhood. WHFT supported the march, helped organize it, publicized it, and provided program information about the gang problem. The march took place, and Rev. Davis met with members of two rival gangs and the police department and made peace in a violence-torn neighborhood. No other television station in the area covered the march, much less supported it. (§530 above.)

781. Other evidence shows that WHFT also provides a vital forum for local self-expression. Several public witnesses testified that WHFT publicized and supported their organizations when other television stations in the area ignored them. For example, Pastor Rodriguez, with his ministry to the drug and alcohol addicted in the South county area, had received no recognition or assistance from any other Miami area television station until he appeared on WHFT programs. (§519 above.) Mrs. Caceres-Gonzales with her ministry to abused and neglected children (§566 above), Pastor Lewandowski with his ministry to the drug and alcohol addicted and troubled Viet Nam vets (§542 above), and Mr. Dodge with his Turning Point Ministry to the drug and alcohol addicted (§554 above) all testified that their work was ignored by other Miami area television stations. WHFT, on the other hand, gave their work both needed publicity and support. Rev. Rosario, in particular, testified that no other Miami television station has done as much as WHFT to help advance his ministry to the largely Hispanic drug and alcohol addicted. (§584 above.)

782. Public witnesses almost uniformly praised WHFT programming for its consistent emphasis on providing information about local agencies, organizations, and ministries to which people with alcohol or drug addiction or other problems could seek assistance. Dr. Anders, for example, testified that the entire emphasis in the program on which he appeared was to give viewers information on the resources in their community to which

they could apply for help. (§516 above.) Pastor Rodriguez's testimony noted the same quality in the programs on which he appeared (§519 above), as did the testimony of Rev. Williams (§545 above) and Mr. Thompson (§561 above). Mrs. Carter testified that the purpose of the program on which she appeared was to provide information about community resources to which people could turn for help with drug addiction. (§535 above.) Several other witnesses, like Rev. Lopez, testified that WHFT's programs emphasized communicating to the viewers about the community resources and organizations to which they could turn for help with a drug and alcohol addiction problem. (§580 above.) A WHFT program about gang violence included copious information about the educational, nonprofit, and law enforcement groups to which parents who had questions concerning their children's possible involvement in youth gangs could turn for assistance. (§544 above.)

783. Finally, because of the racial tension in the community WHFT tried to convey to its viewers a sense of celebration of the community's racial and ethnic diversity, and how that diversity enriched all the viewers lives. The station regularly made a point of showing how different racial and ethnic groups cooperating in solving community problems. (§504 above.) Jack Thompson testified that one program on which he appeared conveyed a sense of celebration of the diversity of South Florida in a manner often lacking in the region. (§562 above.)

784. In sum, WHFT's record of community outreach is truly extraordinary. How many other broadcast stations can say that they fed over 30,000 needy people during a license term, or provided emergency food aid to 55 families each week? How many other broadcast stations have been described as a "vital link in the safety net for the poor residents...?" How many other broadcast stations provide a 24 hour referral service whereby callers are given, at a minimum, a prompt referral to an agency, organization, or ministry that will assist with their problem? About what other broadcast station can a public witness testify that six people are alive today because of help they received from the station's Prayer Line?

6. Renewal Expectancy Summary

785. Based on the foregoing, WHFT has earned a solid renewal expectancy for substantial and meritorious performance in service to its community throughout the License Term.

7. Overall Comparative Evaluation

786. The overall comparative evaluation between TBF and Glendale turns on the following factors: WHFT's renewal expectancy earned for substantial service during the license term versus Glendale's diversification advantage. It is well established that "because of the clear detriment involved in depriving the public of a proven service," the Commission gives greater weight to renewal expectancy than to the purely struc-

tural factors of diversification and integration. Radio Station WABZ, Inc., 90 FCC 2d 818, 846 (1982). Of greatest weight here, therefore, is the renewal expectancy earned by WHFT. While Glendale has a diversification advantage, that cannot overcome WHFT's renewal expectancy.^{117/} Renewal expectancy prevails over diversification and integration preferences, even where such structural preferences are substantial. Tele-Broadcasters of California, Inc., 58 RR 2d 223, 233 (Rev. Bd. 1985) (renewal expectancy for meritorious performance held to outweigh challenger's substantial diversification preference and moderate integration preference, with same result even if challenger "had proposed a great deal more of fulltime management integration"); United Broadcasting Company, Inc. (WOOK(FM)), supra, 100 FCC 2d at 1587-90 (licensee's renewal expectancy outweighs challenger's substantial diversification preference, moderate integration preference, and slight auxiliary power preference). Accordingly, TBF is the comparatively superior applicant in this proceeding.

^{117/} Cowles Broadcasting, Inc., 86 FCC 2d 993, 1008-09, 1017 (1981), aff'd sub nom. Central Florida Enterprises, Inc. v. FCC, 683 F.2d 503 (D.C. Cir. 1982), cert. denied, 103 S.Ct. 1774 (1983) (licensee's renewal expectancy outweighs challenger's clear diversification preference based on licensee's numerous other broadcast and newspaper interests); United Broadcasting Company, Inc. (WOOK(FM)), 100 FCC 2d 1574, 1588-90 (1985) (licensee's renewal expectancy outweighs challenger's substantial diversification preference based on licensee's ownership or control of ten other broadcast stations).

IV. ULTIMATE CONCLUSION

787. TBF is basically qualified to remain the licensee of WHFT and to continue providing its laudable service to its community. It also is fully entitled to a renewal expectancy. George Gardner and Glendale, however, have confirmed that the concerns which caused the Commission to place Gardner under heightened scrutiny due to his unreliability for candor and truthfulness remain as valid today as ever, and Glendale is not basically qualified. Even if Glendale were qualified, based on TBF's renewal expectancy, TBF is dispositively superior to Glendale on comparative grounds.

788. For the foregoing reasons, TBF's application for renewal of license of WHFT should be granted, and Glendale's application for a construction permit should be denied.

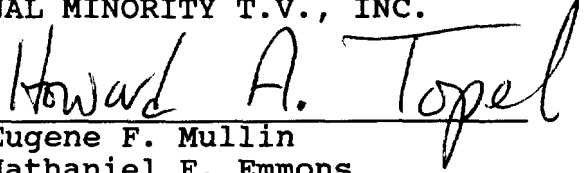
Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Joan M. Trepal, a secretary in the law firm of Mullin, Rhyne, Emmons and Topel, hereby certify that on this 15th day of August, 1994, copies of the foregoing "Proposed Findings of Fact and Conclusions of Law" were sent by first class mail, postage prepaid, to the following:

- * The Honorable Joseph Chachkin
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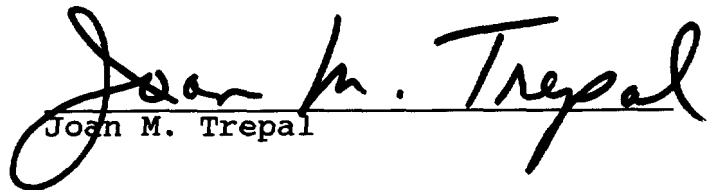
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